



## Tackling the complexity of benefit regulations

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December 2005

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1. Ahead of your session with officials from the Department for Work and Pensions on the 7<sup>th</sup> December, this document seeks to inform the Committee's interest in benefit complexity by setting out some key issues that we hope your session will cover. It does not propound specific reforms, but rather argues for a cautious approach. CPAG would like to see a simpler experience of the benefits system, this might include looking at the current complexity of benefit regulations, the structure of the system or its administration. We do not believe it can be taken for granted that the root cause of the poor experience too often experienced by claimants solely results from complexity – the effectiveness of structures and bureaucracy in managing these play a significant role.
2. As backdrop we note both the useful recent report from the National Audit Office<sup>i</sup> and official interest in simplification, as witnessed by the new Secretary of State for Work and Pensions, John Hutton MP, who suggested that the Department for Work and Pensions (DWP) would seek ways of simplifying benefits and discussed the possibility of a single working age benefit in oral evidence to the Work and Pensions Select Committee evidence session.<sup>ii</sup> Beyond this however the DWP have said little about complexity, though we expect further signals of future policy in the Welfare Reform Green Paper in January. Since this is such an important issue and yet we do not know much about the DWP's thinking we strongly welcome the Select Committee's evidence session and hope that this will clarify which way the department is developing its thinking.
3. As a starting point of principle CPAG believes that benefit systems should be of a standard with which all in society would be happy to use and to engage with; it should not be one 'reserved for the poor'.<sup>iii</sup> We also wish to emphasize the need to tread carefully in this area. The benefits system is undoubtedly complex and has got more so - CPAG produces an annual handbook explaining the benefit and tax credit system<sup>iv</sup> which now runs to 1582 pages. By way of an example to illustrate why the benefits system currently needs a handbook of that length, the rule which describes nothing more than the date on which a supersession decision (superceding a previous decision) takes effect<sup>v</sup> runs to 34 subparagraphs. Complexity causes real problems for claimants and administrators alike, but it is not complex without reason. Complexity often arises from the intention of meeting complex needs and so attempts to simplify must bear in mind the need to minimise the numbers of losers from any reform.
4. CPAG has welcomed the resources that tax credits have brought directed at tackling child poverty, but they have also brought fearsome complexity and have extended means testing to a larger proportion of the population. A similar (though perhaps less complex) pattern is observable with the Pension Credit. Means testing tends to bring complexity with it since this involves targeting with a test of means – universal solutions (such as child benefit) are simpler to administer and simpler to understand.
5. CPAG does not reject the more radical approaches to benefit reform – including the single working age benefit – but we see many significant difficulties for claimants in the implementation of such a scheme, particularly if the backdrop to this is a continued heavy reliance on means testing and broader resource constraint. CPAG sees perhaps greater potential in the process by which DWP and other Departments manage the claimant's experience of complexity.

## The problems associated with complexity

6. Here we explore briefly some of the key problems associated with complexity, and to do so we outline those affecting key means-tested benefits and tax credits.
7. *Non-take up.* Key benefits and tax credits have low take up. This undermines the implied overall policy goal of getting the correct entitlements to entitled persons and families. Non-take up may be influenced by a number of factors, but complexity leading to lack of understanding of (potential) awards is a major driver. It is no coincidence that the take-up of the universal and relatively simple child benefit has been estimated to be 98 per cent<sup>vi</sup> whilst tax credits have been estimated at only 80 per cent,<sup>vii</sup> a pattern made more perverse since the latter is specifically aimed at reducing poverty. Non-take up may be caused by a lack of knowledge but in some cases (probably a minority) it might also represent a choice not to participate – bred by an understanding of the difficulties which might well be experienced in the benefits system – as a mother in receipt of tax credits and having experienced problems with these put it to CPAG:

*I don't trust them, how could I trust them. I'd always be thinking 'oh oh, when am I going to have to pay that back*

In either case – that of difficulty in understanding and accessing entitlements or of someone who expects a bad experience then being put off staying in the system, or applying to it, non-participation damages official anti-poverty objectives.

8. *Claimant error.* We place concern over error above that of fraud because the statistical evidence would suggest the former is a greater problem,<sup>viii</sup> because fraud is falling (where error is not)<sup>ix</sup> and because a concentration on fraud risks damaging the anti-poverty agenda by stigmatising claimants. If processes are very complex, error is quite likely, especially given that poverty may be associated with other factors – such as not having English as a first language or low literacy – which will place claimants at an additional disadvantage in understanding the process of claiming. If processes are complex and if inadequate advice or support (for instance face to face advice) is available then claimant error is quite likely, leading to other problems further on (including non-take up, underpayments and overpayments).
9. *Poor decision-making, official error and inconsistency.* If administrators cannot understand the benefits that they operate (below it is argued that this may not be complexity in itself but rather the failure of systems to manage this effectively) then official error is very likely.<sup>x</sup> High error rates, as witnessed by a well-used appeals process and one which frequently awards in favour of claimants, cause difficulties for claimants (for instance being denied their entitlements) and they cause difficulties for administration in setting these right at a later date. The voluntary sector is often needed to pick up the pieces of this – providing independent advice and assistance to appeal, yet this is, itself, an indication of broader systems failure and good quality advice is not always easily accessible to claimants.
10. *Delays.* Overworked bureaucracy is associated with delay, and delay associated with a poorer claimant experience and quite possibly hardship. Again this problem is not inherent to a complex system, but it probably is to a complex system which is under resourced in its operation. Delays not only cause difficulty for individuals, and can exacerbate child poverty, but have a knock on impact on

the rest of the social security system (through, for instance, the social fund having to cover shortfalls of other benefits which have not yet been paid).

11. *Benefit interaction.* Since significant passporting links exist within the benefits system (including those to outside departments) the capacity for errors to arise increases. The complexity of links between benefits is probably very poorly understood and it is also quite possible claimants do not know about the existence of some passported benefits (including not only centrally provided provision but local support such as school uniform grants which may be passported from receipt of other benefits). This is worsened by departmental ineffectiveness in sharing data, as witnessed by the recent test case of Mrs Hinchy<sup>xi</sup> taken by CPAG, in which the DWP successfully argued that even though one part of it knew about a change of circumstances other parts of the DWP could not be assumed to know about the change – such a basic inability to share records bodes ill for the effectiveness of passporting more generally. Again this factor is worsened by both complexity and poor structures to manage this; CPAG believes there is significant potential to reform the delivery of existing policy to improve its effectiveness and to ease the burden on claimants.
12. *Stigma, time and quality of service.* More generally we would stress that a complex system which requires much of claimants (including stress, time, travel and phone calls), asks them personal questions, particularly around income and family circumstances, and potentially separates them out from their peers (through the means test) risks stigmatising claimants: undermining anti-poverty objectives and punishing people for their poverty. A decent quality of service, delivered through the DWP or other Departments such as Her Majesty's Revenue and Customs, should be a matter of right not luck.

Is complexity the problem or the systems which deliver benefits?

13. Through constituent casework members of the Committee will be more than well aware of the complexity of the benefits system, exacerbated by poor links across departments and between central and local government. Indeed the existence of dedicated MP hotlines suggests MP support is actively used (quite possibly inappropriately since it is probably time consuming and is only available to those who visit their MPs) to manage problems in certain cases. The link between the systems complexity and the claimant experience is partly through the weight of complex regulations but – critically – through the impact of these regulations on the bureaucracy of delivery agencies such as JobCentre Plus.
14. CPAG believes that the benefits system could both be complex in backroom process but the actual experience of engaging with the benefits system be much more straight forward – if policy were better supported by adequate resources: enough well trained and motivated staff; a decent IT system to support this and services which are accessible by a number of means (including both through the call centre approach and with available face to face advice). On each count the problem of complexity (in the regulations) is worsened by poor delivery: tackling benefit complexity may mean looking at the extent of regulations but it should also look at the process of delivery claimants receive. The Gershon efficiency savings require significant staff cuts in both DWP and the Revenue – we remain concerned that these may result in higher error and a worse claimant experience.

## Meeting complex need.

15. The benefits system is undoubtedly complex and this causes problems for both claimants and administrators. However the evolution of the benefits and tax credit system has been one which accrues complexity, either through policy change, guidance or case law, at least in large part to respond to the circumstances of an often vulnerable client group. As such, simplifying – if this were to make benefit regulations more crude and potentially arbitrary – risks reducing this ability to respond to complex need.
16. One key solution is to shift the balance between means testing and universalism since the latter benefits are generally much simpler and better understood than the former, and in partial consequence (along with lack of stigma) they are more effective at getting through to those entitled to them. A (partial) move towards this would be to increase entitlement and coverage of key means tested benefits, thus enabling simpler regulations by having a cruder mechanism of targeting but without removing entitlement for particular groups. If this were not done by increasing the (overall) adequacy of benefits however this risks disentitling those perhaps relatively small groups but who nevertheless have significant and complex needs – there is the risk that benefit simplification, if this were done crudely, would worsen the situation for those with the most complex needs, often the poorest families.

## Who would be the winners and who the losers?

17. CPAG believes that any moves to simplify the benefits system should be well informed by an understanding of who might be the winners and the losers of any approach. We are conscious that the benefits system seeks to meet need, which is inevitably complex and variable, and managing this process is difficult. CPAG is very supportive of universal policy such as child benefit – both in its simplicity and its effectiveness, but we recognise that this policy is expensive. Moves towards simplicity which reduce the claimant experience of complexity are to be welcomed – be they a greater use of universalism (together with the required additional resource), improvements in regulations or improvements in the ‘front room’ experience of the benefits system.
18. Simplification should not be at the expense of a loss of responsiveness (e.g. to disability) which would create losers in a vulnerable part of the population. Similarly it should not be presumed that increasing simplicity will, of itself, create a more effective system.
19. We end on the example of the Child Support Agency (CSA), a recent example of reform we do not wish to see repeated. The 1999 Child Support Act sought to simplify the formulae for assessing maintenance and in doing so to provide a system that would be easier to administer and therefore be more effective at getting money to children. Ahead of a recovery strategy for the CSA promised for the end of 2005, experience has shown that far from improving delivery, the moves to simplify, and the change process necessary to introduce this, have left an agency mired in administrative difficulty resulting in backlogs, delays and poor quality of service for a vulnerable client group. We urge great care to be taken in considering appropriate steps to simplify the benefits system.

## About CPAG

CPAG is the leading charity campaigning for the abolition of poverty among children and young people in the UK and for the improvement of the lives of low income families. CPAG aims to: raise awareness of the extent, nature and impact of poverty; bring about positive income policy changes for families with children in poverty; and enable those eligible for benefits and tax credits to have access to their full entitlement.

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- i National Audit Office, November 2005, Dealing with the complexity of the benefits system, HC 592
- ii In an oral evidence session on the Departments Annual Review, 23 November 2005
- iii the title of J Bradshaw and A Deacon, 1983, Reserved for the poor, means test in British social policy, Blackwell
- iv CPAG, Welfare benefits and tax credits handbook 2005/2006, Child Poverty Action Group, 2005
- v Regulation 7 of the Social Security (Decisions and Appeals) Regulations, 1999
- vi As noted by Paymaster General Dawn Primarolo MP, Hansard Column 816W, 2 March 2004.
- vii As quoted by Paymaster General Dawn Primarolo MP, Hansard Column 95W, 95W
- viii For example, in terms of overpaid benefit the DWP have estimated a fraud level of 1 per cent for the Pension Credit, compared to 1.7 per cent customer error and 2.2 per cent official error (therefore 3.9 per cent error). See DWP, 2005, Fraud and Error in Pension Credit from October 2003 to September 2004, National Statistics. For Income Support and Jobseekers Allowance, DWP have estimated 2.6 per cent fraud, 1.2 per cent customer error and 2.4 per cent official error (3.6 per cent error). See DWP, 2005 Fraud and Error in Income Support and Job Seekers Allowance from October 2003 to September 2004 National Statistics.
- ix Using data for Income support and Jobseekers allowance from several years, between April 2002 to March 2003 fraud was estimated at 4.5 per cent, in the latest available data (October 2003 to September 2004) this stood at 2.6 per cent; claimant error has gone from 0.9 per cent (April 2002 to March 2003), to 1.2 per cent (October 2003 to September 2004); and official error has gone from 1.9 per cent (April 2002 to March 2003), to 2.4 per cent (October 2003 to September 2004). See DWP, 2004, Fraud and Error in Income Support and Job Seekers Allowance from April 2002 to March 2003 National Statistics; DWP, 2005, Fraud and Error in Income Support and Job Seekers Allowance from October 2003 to September 2004 National Statistics.
- x See endnote ix.
- xi This case was heard by the House of Lords in February 2005. The case related to a claimant who was overpaid one benefit (income support), as a result of another having come to an end (Disability Living Allowance). The ruling suggested that the claimant had failed to report the change, even though both benefits were administered by the same department.